

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

March 2, 2016

Members Present:

Tim Holmes	President
Phil Barrow	Vice-President
Jim Martin	Secretary
Brian Alsip	Member

Members Absent:

Rev. Richard Martin	Member
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Others Present:

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Julie Spate	Recording Secretary

Call to Order:

Tim Holmes called the meeting to order at 7:00 pm.

Approval of Minutes:

Jim Martin made a motion to approve the January 6, 2016 minutes as submitted. Phil Barrow seconded the motion. The members voted to approve the minutes.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

None.

New Business:

ZB 2016-01 (UV/V) – Johnson County Community Corrections Center

This case was continued to the April 6, 2016 meeting. Alex Getchell explained the petitioner's submittal is under revision. Mr. Holmes asked Mr. Getchell if continuances are asked for a specific time. Ms. Gray responded there is one automatic continuance allowed per case, and it is automatically scheduled for the next regular meeting.

ZB 2016-02 (UV) – Journey Church of Franklin

Mr. Getchell introduced ZB 2016-02 for Journey Church of Franklin at 3062 and 3082 Hudson Street. The petition is for a use variance to allow the operation of a church or other place of worship in the IBD zoning district. A variance is needed as a church or other place of worship use is not permitted within

the IBD: Industrial, Business Development zoning district. Church uses are permitted in the A, RR, MXD and IN zoning districts. Churches are also permitted by special exception in MXN, MXC, MXR, RSN, RS-1,2,3, RTN, RT-1,2,3, RM and RMH districts. The only zoning districts in which churches are not permitted are IBD, IL and IG. The application is complete and the public notification requirements have been met. The petition is ready for the board's consideration and action.

Sam Swafford, Associate Attorney with Faegre Baker Daniels, represented Journey Church. Mr. Swafford thanked Mr. Getchell for his help and explained Journey Church to be the contract purchaser for 3062 and 3082 Hudson Street. The existing building has approximately 14,000 sq. ft. And there is the adjoining lot next to it. The property is 2.6 acres. Mr. Swafford introduced Pastor Jim Clayton to speak about the church and variance request. Pastor Clayton began with thanking the board for their consideration and a brief explanation of his personal faith pilgrimage. He and his wife moved to Franklin in 2008 and have grown from a church with two members to approximately 150 in two Sunday services with 80-90% from Franklin. Pastor Clayton reviewed their various locations from starting in their home up until their current place in the Canary Creek Cinemas which he described as not suitable long term for multiple reasons:

1. Volunteers must set up and tear down five different use areas every Sunday, resulting in worn out equipment and people.
2. The ability to secure childcare is limited.
3. Many people won't take the church seriously without their own building.

Pastor Clayton went on to describe a number of community outreaches Journey Church has been or is involved with. He also cited searching unsuccessfully for six years for a church property. The Hudson Street property is the only one they have found suitable. Pastor Clayton listed several ways it suits Journey Church:

1. The layout includes offices and differing size rooms which will require a fraction of the construction cost a more open building would need.
2. The parking lot is larger than for most buildings that size allowing them to move in without the expense of additional parking.
3. The number of restrooms is unusual for a building of this size so move in is possible without cost for additional restrooms.
4. The building is equipped with both heat and AC which eliminates yet another expense.

Pastor Clayton also addressed the fact of other churches located in the same zone as they were petitioning for. He went on to address the Decision Criteria:

1. General welfare: Journey Church is an active member of and contributor to the community. Having a permanent home would allow them to further help the Franklin community. Traffic will not be a problem as Journey's busiest day will be Sunday when surrounding businesses are closed.
2. Adjacent property: Because Journey Church will operate mainly on Sundays, they would not interfere with the operation of other businesses. The surrounding businesses were invited to a meeting on February 25, 2016, to discuss any concerns, and no one attended. Jerry Johnson, president and CEO of Patriot Tactical, sent a letter of support.
3. Condition of property and unnecessary hardship: Pastor Clayton stated some reasons why he believes the building has shortcomings for industrial use; such as the size, layout, and office-to-warehouse ratio and lack of a dock. Pastor Clayton believes those have deterred industrial buyers.

4. Comprehensive plan: Since the property has been on the market for a year or more, Pastor Clayton maintained Journey is not substantially interfering with the comprehensive plan. Further, he maintained they are not taking it from another user given how long it has been on the market.

Mr. Holmes opened the public hearing by calling for anyone wishing to speak for or against the petition. No one responded. Questions from the Board were called for. There being none, Mr. Holmes called on Mr. Getchell for comments. Mr. Getchell responded regarding other churches permitted in the IBD zoning district. First was the church said to be meeting in the InterChurch Food Pantry facility which has not received approval; staff learned of a possible church operating from the Interchurch property just a couple days ago. Mr. Swafford explained their listing of InterChurch only because it is a church supportive entity. Counsel Gray confirmed from her Friday visit that they are not holding church services there. The Gear/Current Church on Commerce Drive received board approval in 2011. Prior to The Gear, that property had received approval for a use variance as a dance studio, so it was already a non-industrial use. The building size for The Gear is less than half the size of the Hudson Street property, at only 7000 sq. ft. Franklin Christian Fellowship on Graham Road was approved in 2003, despite staff's recommendation for denial, and staff also recommended denial of The Gear in 2011. It was thought Franklin Christian Fellowship could serve as a buffer between the residences to the south and the industrial uses to the north. The difference with the Journey Church proposed property, is that it is in the middle of an industrial park.

Mr. Holmes called for staff recommended conditions if a use variance were to be granted. Mr. Getchell responded. If the board finds evidence to approve the use variance, staff recommends the following conditions of approval:

- 1.) The use variance approval shall be limited to the applicant, Journey Church of Franklin, Inc., at the subject property of 3062 & 3082 Hudson Street.
- 2.) The total number of chairs provided in the sanctuary and total occupancy of the structure will never exceed the occupant load as outlined in the Indiana Building Code or the parking requirements outlined by the Zoning Ordinance.
- 3.) An application shall be submitted to and shall receive approval from the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
- 4.) Where applicable, Improvement Location Permit(s) shall be obtained prior to construction/renovation.
- 5.) Sign permits shall be reviewed and approved separately.
- 6.) Any expansion or reconfiguring of the parking lot or interior drives shall require Site Development Plan approval and conformance with all applicable development standards for the entire parking lot.

Mr. Getchell further explained the parking lot as shown in the exhibit was constructed without site development plan review or planning department approval, so it is a non-conforming feature and that is the reason why it extends over the property line. Ms. Gray asked Pastor Clayton and Counsel Swafford would accept these conditions if the board granted the use variance. They expressed their unanimous and total agreement with the conditions and the commitment to abide by them. Mr. Holmes called once again for any comments from the Board. Mr. Swafford sought the opportunity to respond regarding the other churches in the IBD zoning district and also identified that a couple of members would like to speak. Ms. Gray explained the public hearing opportunity was already given. Mr. Swafford elected to not speak any further.

Mr. Barrow asked what the signage will be to direct people to Hudson Street who don't know the church. Pastor Clayton's responded they will do whatever they can without being in violation of any city ordinances.

Mr. Martin made a motion to approve the use variance request with staff's recommended conditions, as agreed to by the petitioner. A second was offered by Mr. Barrow. The motion passed, 4-0.

ZB 2016-03 (SE/V) – Meineke Car Care Center

Mr. Getchell introduced the case. ZB 2016-03 is a petition by Meineke Car Care Center at 110 Commerce Drive for a special exception to allow the operation of an auto-oriented use (medium scale) and for a developmental standards variance to allow for four fewer parking spaces than required by ordinance in an IBD and GW-OL zoning district. A variance is needed as 42 parking spaces are required to be provided for the business and the applicant is requesting to provide 38. The application is complete with a couple of issues related to the public notification. Mr. Getchell mistakenly listed a use variance on the legal ad instead of a special exception. And the publisher's affidavit from the Daily Journal has not yet been received, but Mr. Getchell was in possession of a printout from the paper showing it ran on the required date. Ms. Gray explained further that the advertised use variance is more intensive than the special exception, the specific nature of the request being even more burdensome, so it was counsel's opinion that substantial compliance occurred with regards to the notice and the petition is timely, so Ms. Gray was comfortable from a legal standpoint that the requirements had been met. A motion to determine notices are sufficient was made by Mr. Martin and a second by Mr. Alsip. The motion carried.

Attorney John Reames represented Tim Gonterman who has operated the Meineke Car Center currently located at 990 North Morton Street for the last 10 years. Mr. Gonterman is involved in a contract purchase of lots eight and nine of the former Grand Rental Station property located at 110 Commerce Drive. The request before the Board tonight is only for lot eight. Mr. Gonterman has no plan to use lot nine at this time. There is a 7200 sq. ft. building on the property where office, reception area, six auto repair bays and 14 interior parking spaces will be located. Meineke is solely an auto repair/maintenance facility, not a body shop.

Mr. Reames reviewed the criteria for the special exception:

1. General welfare: All work is done inside the building. No exterior storage will occur. Mr. Gonterman plans to remove existing gravel and install grass and additional vegetation. The existing propane refueling station will be removed and not be replaced by anything else. He will remove two existing gates and allow for a counter-clockwise flow of traffic. These improvements should improve the appearance in the property.
2. Development standards: Mr. Gonterman's business averages 15 vehicles daily and currently has five employees. If all 15 clients showed up in one day at the same time combined with his five employees spaces, they would still have five remaining open parking spaces.
3. Ordinance intent: This property is not in a residential area. It is surrounded by KFC, Duke, MetroNet and Complete Hydraulics. These are comparable to Mr. Gonterman's desired use.
4. Comprehensive plan: Mr. Gonterman's use will not involve outdoor storage or the operation of heavy equipment and machinery. There will be only minimal outdoor displays during actual business hours such as new tire displays.

Mr. Reames followed up with reviewing the criteria for the development standards variance:

1. General welfare: Thirty-eight total parking spaces are requested instead of the minimum 42 as required by zoning ordinance. The traffic will enter through one entrance and travel counter-clockwise. There will not be numerous vehicles entering and they will not move in different directions as a rule. Vehicles to be worked on will be parked on the exterior of the building only for short periods of time.
2. Adjacent property: Parking spaces are only deficient by four parking spaces, and will be providing 90 percent of the spaces required.
3. Practical difficulty: If the current development standards were enforced, Mr. Gonterman would be forced to reduce the number of overhead doors installed to allow for more parking.

Mr. Holmes opened the public hearing by calling for anyone wishing to speak for or against the petition. No one responded. Mr. Holmes asked for questions from the Board. Being no questions from the Board, Mr. Holmes asked Mr. Getchell for staff's recommendation. Mr. Getchell gave staff's recommendation for approval with conditions, as outlined in the staff report. Additionally, he added a sixth condition that outdoor product display shall be displayed during business hours only. Mr. Getchell further added, since the property is within the Gateway Overlay District, product display has to be immediately adjacent to the building and not in parking spaces. Mr. Gonterman indicated he was aware of the allowed locations for product display. Ms. Gray asked Mr. Reames if all conditions as outlined in the staff report, for both the special exception and developmental standards variance, were acceptable to his client. Mr. Reames assured they were.

Mr. Martin made a motion to approve the special exception with six staff recommended conditions. A second was made by Mr. Barrow. The motion passed, 4-0.

Mr. Martin made a motion to approve the developmental standards variance with three staff recommended conditions. A second was made by Mr. Alsip. The motion passed, 4-0.

Other:

None.

Adjournment:

There being no further business, the meeting was adjourned at 7:54 pm.

Respectfully submitted this 6th day of April, 2016.

Tim Holmes, President

Jim Martin, Secretary